

HOUSE BILL 2260

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 55, Part 2; Title 43; Title 49; Title 67 and Title 71, relative to community gardening.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 43-24-102(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) "Community garden" means a piece of property, either on vacant public land or on private land, cultivated by residents of a neighborhood or community, or members of a homeowners or condominium owners association for the purpose of providing vegetables, nuts, herbs, fruit, or flowers, whether by means of cultivating annual, biennial or perennial plants, or trees, for use of residents of the neighborhood or community or members of the homeowners or condominium owners association, or offered for sale so long as all proceeds from any such sales are used solely to defray the cost of operating and maintaining the community garden;

SECTION 2. Tennessee Code Annotated, Section 43-24-104, is amended by deleting the section in its entirety and substituting the following:

43-24-104. When there is a shortage of parcels or space for community gardening, first priority in the allotment of public land shall be given to collaborative projects between persons sixty (60) years of age or older and students in kindergarten through twelfth (K-12) grade and second priority in the allotment of public land shall be given to persons sixty (60) years of age or older and persons whose gross annual income is equal to or less than the poverty guidelines published annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. § 9909(2).

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 6, Part 10, is amended by adding the following as a new, appropriately designated section:

49-6-10\_\_\_. The board of education shall develop and implement a program to promote the participation of students in kindergarten through twelfth (K-12) grade in the development and maintenance of community gardens, as defined in § 43-24-102. Such program may include, but is not limited to, offering elective credits for students' participation in community gardening.

SECTION 4. Tennessee Code Annotated, Section 67-5-2509(d), is amended by adding the following as a new subdivision:

(6) In lieu of the sale to private purchasers as provided in subsection (b), the proper officers of the municipality or county may convey property suitable for community gardening, as defined in § 43-24-102, to a private nonprofit entity that meets all conditions specified in this subdivision (d)(6), on any terms deemed appropriate to the officers:

(A) The entity is certified as a tax exempt entity under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));

(B) The entity is qualified to operate and maintain a community garden under title 43, chapter 24, and any rules or regulations promulgated pursuant thereto; and

(C) Ownership of the property shall revert to the municipality or county if the entity, or a successor nonprofit entity that meets all of the conditions of this subdivision (d)(6), ceases to operate and maintain a community garden on the property.

SECTION 5. Tennessee Code Annotated, Section 67-6-301, is amended by adding the following as a new subsection:

(d) The gross proceeds derived from the sale in this state of products that are grown or produced in a community garden, as defined in § 43-24-102, in any calendar year, directly from a representative of the community garden, are exempt from the tax levied by this chapter, if all of such proceeds are used to defray the cost of operating and maintaining the community garden.

SECTION 6. Tennessee Code Annotated, Section 71-2-105(a), is amended by adding the following as new, appropriately designated subdivision:

( ) Make available to older persons information concerning the nutritional benefits of eating garden produce to promote participation by older persons in community gardens, as defined in § 43-24-102.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.